

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LEONARD LISIECKI and U.S. POSTAL SERVICE,
POST OFFICE, Northfield, OH

*Docket No. 99-454; Submitted on the Record;
Issued April 3, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
A. PETER KANJORSKI

The issue is whether appellant met his burden of proof in establishing that he sustained an injury in the performance of duty.

The Board has duly reviewed the case record in the present appeal and finds that the Office of Workers' Compensation Programs properly determined, in its November 12, 1997 decision, that appellant failed to meet his burden of proof in establishing that he sustained a medical condition caused by his employment.¹

An employee seeking benefits under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of his or her claim including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.³ These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

¹ In the November 12, 1997 decision, an Office hearing representative, after a review of the written record, affirmed a June 12, 1997 Office decision. The hearing representative found that the medical evidence did not establish that appellant's claimed hemorrhoids were causally related to his employment and the hearing representative also found that perianal irritation and an anal fissure, noted by appellant's physician, were not causally related to appellant's employment.

² 5 U.S.C. §§ 8101-8193.

³ *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *Victor J. Woodhams*, 41 ECAB 345 (1989).

There is no dispute that appellant is a federal employee, that he timely filed his claim for compensation benefits, and that the workplace incidents or exposure occurred as alleged. However, the medical evidence is insufficient to establish that appellant sustained an injury in the performance of duty.⁵

In support of his claim, appellant submitted the October 4, 1996 report of Dr. James Hauer, a Board-certified surgeon, who noted that appellant had two conditions, hemorrhoids and perianal chafing. He opined that appellant's hemorrhoids appeared not to be employment related but were likely due to a hard bowel movement. Dr. Hauer indicated that appellant had a history of a rash between his buttocks since October 1995 which was felt to be due to a yeast infection with possible contribution by an anal fissure. However, Dr. Hauer also opined that the initial presentation of perianal irritation "possibly was caused by the description of [appellant's] employment."⁶ He concluded that "conditions of employment have resulted in the perianal irritation, may have been related to the ... fissure, and drainage which would have been exacerbated by the description of employment."

The Board notes that Dr. Hauer's report is insufficient to establish appellant's claim because he negates a causal relationship between appellant's hemorrhoid and his employment and he provides only speculative and unrationalized support for causal relationship with regard to the perianal irritation and the anal fissure. For example, the doctor, in support of his conclusion, did not explain how or why specific factors of appellant's employment would cause or aggravate appellant's condition. Furthermore, his opinion on causal relationship is couched in speculative terms and his medical report does not indicate a familiarity with appellant's employment history as he does not identify any employment factors alleged to have caused appellant's conditions.⁷ Appellant submitted no other medical evidence addressing his claimed condition. Consequently, appellant has not submitted sufficient medical evidence to establish that his perianal conditions were caused or aggravated by employment factors. In view of this, appellant has not met his burden of proof in establishing that he sustained an injury in the performance of duty.

⁵ Part of a claimant's burden of proof includes the submission of rationalized medical evidence based upon a complete factual and medical background showing causal relationship between the claimed injury and employment factors; see *Mary J. Briggs*, 37 ECAB 578 (1986); *Joseph T. Gulla*, 36 ECAB 516 (1985).

⁶ Dr. Hauer's report referenced a "statement" prepared by appellant but he did not identify specific factors of appellant's employment alleged to have caused any particular condition.

⁷ See *Leonard J. O'Keefe*, 14 ECAB 42, 48 (1962) (where the Board held that medical opinions based upon an incomplete history or which are speculative or equivocal in character have little probative value); see also *Cowan Mullins*, 8 ECAB 155, 158 (1955) (where the Board held that a medical opinion based on an incomplete history was insufficient to establish causal relationship).

The November 12, 1997 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.
April 3, 2000

Michael J. Walsh
Chairman

George E. Rivers
Member

A. Peter Kanjorski
Alternate Member